

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 1020 – SB 1086**

April 24, 2017

**SUMMARY OF ORIGINAL BILL:** Defines “short-term rental unit” as a residential dwelling, including a single-family dwelling or a unit in a multi-unit building, such as an apartment building, condominium, cooperative, or time-share that is rented wholly or partially for a fee for a period of less than thirty continuous days. Defines “short term rental unit provider” as any person or entity engaged in renting a short-term rental unit to an occupant. Defines “online short-term rental unit marketplace” as any person or entity that provides a digital platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant.

Requires short-term rental unit providers which furnish short-term rental units to transients to pay any occupancy tax, sales tax, and other applicable taxes. Establishes that a short-term rental unit marketplace is required to collect and remit taxes for short-term rental unit providers using such short-term rental unit marketplace services.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Revenue –

\$346,200/FY18-19/General Fund

\$4,000/FY18-19/Department of Revenue

\$692,400/FY19-20 and Subsequent Years/General Fund

\$8,100/FY19-20 and Subsequent Years/Department of Revenue

Increase State Expenditures - \$76,100/FY18-19

\$145,800/FY19-20 and Subsequent Years

Increase Local Revenue - \$369,600/FY18-19

\$739,200/FY19-20 and Subsequent Years

**IMPACT TO COMMERCE OF ORIGINAL BILL:**

NOT SIGNIFICANT

**HB 1020 – SB 1086**

**SUMMARY OF AMENDMENT (005902):** Deletes and replaces language of the original bill such that the substantive changes are as follows: authorizes local governing bodies, after the effective date of this legislation, adopting or authorized to impose any tax set forth in Tenn. Code Ann. § 67-11-102(a)(1)-(4) for short-term rentals, to make an election or amend a previous election within 30 days of adoption or enactment of such tax. Requires the DOR to collect such taxes and the local governing body to furnish DOR a certified copy of each resolution, ordinance, public act, or private act adopting or authorizing the local governing body to impose such taxes in the absence of an election or amendment. Requires the DOR to publish and maintain a list of all taxes it collects pursuant to Tenn. Code Ann. § 67-11-102 and the applicable tax rates.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- This legislation is effective upon becoming law, except for sections that impose additional taxes, which take effect January 1, 2019. This effective date will make the legislation effective for approximately 50 percent of FY18-19.
- It is assumed that the short-term rental unit marketplace will elect to collect and remit all applicable taxes under this act to the DOR.
- The following assumptions are based on the New York State Attorney General 2014 report (Airbnb in the city), and the DOR's search of Airbnb's website for rentals in Tennessee.
- It is estimated that there are approximately 9,000 short-term rentals available each year in Tennessee.
- The fiscal analysis focuses on Airbnb rentals as it is estimated that applicable taxes are charged on most of the other platforms offering short-term rentals.
- An average property listing is assumed to be reserved 14 times per year, for a total of 126,000 reservations in Tennessee (9,000 x 14).
- The average consideration charged per reservation is estimated to be \$362.
- The total statewide consideration charged is estimated to be \$45,612,000 (126,000 x \$362).
- The current sales tax rate is 7.0 percent; the local option sales tax is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent; the average local hotel occupancy tax is estimated to be 4.5 percent.
- It is estimated that approximately 75 percent of sales, occupancy and business taxes are currently being collected; therefore, 25 percent of the sales taxes remain uncollected.
- This legislation states that a sales tax does not include a separately stated service fee imposed by an online short-term rental unit marketplace on a short-term rental unit transaction, which is equal to approximately 10 percent of the total average reservation;

therefore, sales taxes would apply to approximately 90 percent of the average reservation.

- The net increase in state sales tax revenue is estimated to be in \$346,202 FY18-19  $\{ [(\$45,612,000 \times 7.0\% \times 25.0\% \times 90.0\%) - (\$45,612,000 \times 7.0\% \times 3.617\% \times 25\% \times 90\%)] \times 50\% \}$  and \$692,405 in FY19-20 and subsequent fiscal years  $[(\$45,612,000 \times 7.0\% \times 25.0\% \times 90.0\%) - (\$45,612,000 \times 7.0\% \times 3.167\% \times 25\% \times 90\%)]$ .
- The total increase in local sales tax revenue is estimated to be \$141,276 in FY18-19  $\{ [(\$45,612,000 \times 2.5\% \times 25.0\% \times 90.0\%) + (\$45,612,000 \times 7.0\% \times 3.617\% \times 25.0\% \times 90.0\%)] \times 50\% \}$  and \$282,552 in FY19-20 and subsequent fiscal years  $[(\$45,612,000 \times 2.5\% \times 25.0\% \times 90.0\%) + (\$45,612,000 \times 7.0\% \times 3.617\% \times 25.0\% \times 90.0\%)]$ .
- This legislation states that DOR may elect to deduct an administration fee equal to 1.125 percent of the occupancy taxes collected.
- The increase in local hotel occupancy tax revenue is estimated to be \$228,313 in FY18-19  $\{ [(\$45,612,000 \times 4.5\% \times 25.0\% \times 90.0\%) - (\$45,612,000 \times 4.5\% \times 25.0\% \times 90.0\% \times 1.125\%)] \times 50\% \}$  and \$456,626 in FY19-20 and subsequent fiscal years  $[(\$45,612,000 \times 4.5\% \times 25.0\% \times 90.0\%) - (\$45,612,000 \times 4.5\% \times 25.0\% \times 90.0\% \times 1.125\%)]$ .
- The total increase in local tax revenue is estimated to be in \$369,589 FY18-19  $(\$141,276 + \$228,313)$  and \$739,178 in FY19-20 and subsequent years  $(\$282,552 + \$456,626)$ .
- An increase in revenue to DOR of \$4,041 in FY18-19  $[(\$45,612,000 \times 7.0\% \times 25.0\% \times 90.0\% \times 1.125\%) \times 50\%]$  and \$8,082 in FY19-20 and subsequent fiscal years  $(\$45,612,000 \times 7.0\% \times 25.0\% \times 90.0\% \times 1.125\%)$ .
- Under current law, pursuant to Tenn. Code Ann. § 67-4-730, property management companies are required to remit business taxes on gross proceeds from overnight rentals and gross proceeds from any other source subject to the business tax. This legislation exempts services rendered by an online short-term rental unit marketplace from business taxes and instead makes short-term rental unit providers responsible for remitting the tax. Any change in the amount of business tax remitted to state and local governments is estimated to be not significant.
- According to DOR, an additional Tax Auditor 3 position and an additional Taxpayer Services Rep 3 will be necessary to process and audit additional tax filings required by this proposed legislation.
- An increase in state expenditures of \$72,854 in FY18-19  $[(\text{salary } \$116,117 + \text{benefits } \$26,191 \text{ communications } \$2,800 + \text{supplies } \$600) \times 50\%]$  and \$145,708 in FY19-20 and subsequent fiscal years  $(\text{salary } \$116,117 + \text{benefits } \$26,191 \text{ communications } \$2,800 + \text{supplies } \$600)$ .
- There will be a one-time increase in state expenditures in FY18-19 for these positions of \$3,200.
- The total increase in state expenditures in FY18-19 is estimated to be \$76,054  $(\$72,854 + \$3,200)$ .

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Imposition of state and local taxes is not anticipated to significantly impact the number of annual nightly rentals in the state.
- All sales taxes and hotel occupancy taxes are paid by transients; not business owners.
- Any impact on private sector jobs is estimated to be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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